

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION
CIVIL ACTION NO. 2:06-CV-00049-F**

BLACKWATER SECURITY CONSULTING, LLC, a)
Delaware Limited Liability Company; and)
BLACKWATER LODGE AND TRAINING)
CENTER, INC., a Delaware Corporation)

Petitioners,)

v.)

RICHARD P. NORDAN, as Ancillary Administrator)
for the Separate Estates of STEPHEN S.)
HELVENSTON, MIKE R. TEAGUE, JERKO)
GERALD ZOVKO, and WESLEY J. K. BATALONA,)

RESPONDENT.)

**DECLARATION OF
KIRK G. WARNER**

Kirk G. Warner, under penalty of perjury, states that the following is true and correct:

1. I am over the age of 18 and competent to testify as to the matters contained herein.

2. I am a partner in the law firm of Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, LLP, P.O. Box 2611, Raleigh, North Carolina 27602.

3. I am counsel for Petitioners Blackwater Security Consulting, LLC and Blackwater Lodge and Training Center, Inc. in the instant matter and in the North Carolina, Wake County Civil Superior matter entitled, Richard P. Nordan, as Ancillary Administrator for the Separate Estates of Stephen S. Helvenston, Mike R. Teague, Jerko Gerald Zovko, and Wesley J.K. Batalona v. Blackwater Security Consulting, LLC; Blackwater Lodge and Training Center, Inc.; and Justin L. McQuown, 05 CVS 173.

4. In my capacity as counsel for the Defendants in the North Carolina state action, I filed or caused to have filed with the Wake County Clerk of Court the following documents and I certify that the copies of said documents attached hereto are authentic copies of the documents as filed with the Wake County Clerk of Court:

a. October 13, 2005 Amended Motion to Dismiss (Ex. A);

b. January 4, 2007 Order Upon Reconsideration (Ex. B);

c. January 12, 2007 Blackwater Defendants' Exception and Objection to Order Upon Reconsideration (Ex. C); and

d. January 12, 2007 Notice of Appeal (Ex. D).

5. In addition, I certify that the copies of the documents attached as Exhibits A-G and I to the Petition to Compel Arbitration filed herein are also authentic copies of documents on file with the Wake County Clerk of Court and that the copy of the document attached as Exhibit H to the Petition to Compel Arbitration filed herein is an authentic copy of an order issued by Judge Morgan Christen in the Superior Court of the State of Alaska, Third Judicial District in Anchorage.

6. In my capacity as counsel for the Petitioners, I am aware of the corporate relationship between the Petitioners and as reflected in the corporate Membership Certificate attached hereto as Exhibit E, which identifies that Blackwater Lodge and Training Center, Inc. is the "sole manager member" of Blackwater Security Consulting, LLC.

7. In my capacity as counsel for the Petitioners, I am familiar with Blackwater's Demand for Arbitration filed with the American Arbitration Association (AAA). (Petition, Ex. F.) As reflected in the email hard copy from Ms. Brigitte Omane, Case Administrator, American Arbitration, attached hereto as Exhibit F, Respondent has failed to respond to the Demand for Arbitration within the time prescribed by the AAA rules (due January 15, 2007).

Further this declarant sayeth naught.

This the 18th day of January, 2007.

SMITH, ANDERSON, BLOUNT, DORSETT,
MITCHELL & JERNIGAN, L.L.P.

By: 

Kirk G. Warner, NCSB No. 16238

Mark A. Ash, NCSB No. 13967

Post Office Box 2611

Raleigh, North Carolina 27602

Telephone: (919) 821-1220

E-Mails: kwarnersmithlaw.com

mashsmithlaw.com

*Counsel for Petitioners Blackwater Security
Consulting, LLC, & Blackwater Lodge and
Training Center, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on January 18, 2007, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system. Notification of such filing was given, as indicated below, by the CM/ECF system to those registered, or by mailing a copy of the same by U.S. Mail, postage paid, to parties who are not registered to receive a Notice of Electronic Filing for this case:

This the 18th day of January, 2007.

A handwritten signature in black ink, appearing to read "Kirk G. Warner", written over a horizontal line.

Kirk G. Warner


CERTIFICATE OF SERVICE

I hereby certify that on January 18, 2007, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system. Notification of such filing was given, as indicated below, by the CM/ECF system to those registered, or by mailing a copy of the same by U.S. Mail, postage paid, to parties who are not registered to receive a Notice of Electronic Filing for this case:

David F. Kirby
Kirby & Holt, LLP
3201 Glenwood Avenue
Suite 100
Raleigh, North Carolina 276212
E-Mail: dkirby@kirby-holt.com
Attorneys for Respondent

Daniel J. Callahan
Callahan & Blaine, APLC
3 Hutton Centre Drive, Suite 900
Santa Ana, California 92707
E-Mail: daniel@callahan-law.com
Attorneys for Respondent

This the 18th day of January, 2007.


Kirk G. Warner